

**BOARD OF ADJUSTMENT  
MINUTES OF THE MEETING  
APRIL 1, 2008**

**CALL TO  
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Tony Sagami, and Craig Wagner, Gina Klempel, and Scott Hollinger. Mark Hash was absent. Dianna Broadie, Alex Hogle, Andrew Hagemeyer, and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 29 people in the audience.

**APPROVAL OF  
MINUTES**

*No minutes were approved.*

**PUBLIC REVIEW**

Hash reviewed the public hearing process.

**PUBLIC  
COMMENT  
(not related to  
agenda items)**

None.

**DRISCOLL/  
HALAAS  
(FZV 08-02)**

A request by Robert Driscoll and Beth Halaas, for a Zoning Variance to property within the Ashley Lake Zoning District. The applicants are requesting a variance to Section 3.38.050 (6a) of the Flathead County Zoning Regulations which requires 10-foot setbacks from all property lines. The property is located at 4457 Ashley Lake Road.

**STAFF REPORT**

Andrew Hagemeyer reviewed staff report FZV 08-02 for the Board.

**BOARD  
QUESTIONS**

Sagami asked about the length of the deck. He asked how far the eaves would overhang.

Hagemeyer said the applicant could address that.

The Board and Staff discussion the series of boundary line adjustments that took place.

Wagner pointed out there was only 3, out of 7, members at the Ashley Lake committee so there wasn't a quorum.

Hagemeyer said the Board could disregard their recommendation.

**APPLICANT**

Rob Driscoll talked about the history of the lots. He said the foundation was laid in 1997 when there were no setbacks. He mentioned that he sits on the Ashley Lake Land Use Advisory Committee and stepped down last week when his project was presented.

Sagami asked why a 5-ft deck.

Driscoll said structurally that's how it was designed. He paid a designer to come up with something that would work. He said there were no setbacks when this lot was created and when the foundation was poured.

**AGENCIES**

None.

**PUBLIC  
COMMENT**

David Stoic, property owner directly south, talked about the size of the lots. He said the lots are larger on the lake and taper down in size as you back up to Ashley Lake Road. He said most of the lots in the area are 80-100 feet wide, not 50-ft like Driscoll's property. He acknowledged that the foundation is legit but worries about how things will turn out. He said the house is huge compared to the lot it's on. He feels like he is being squeezed in on both sides. He thinks he is the only one affected and doesn't see how this process is really fair; he thinks it should be his decision.

**STAFF  
REBUTTAL**

Hagemeier pointed out that he didn't make anything up in regard to his staff report. It was based on observation during site visits and the application materials presented. He reviewed the findings-of-fact.

**APPLICANT  
REBUTTAL**

Driscoll said there needed to be clarification on the lots. He thinks he's done everything in his power to do right. He said the person who filed a complaint against him didn't even bother to show up; they just don't get along. He continued to give history of the lots.

Sagami asked how far the eaves on the deck overhang.

**BOARD  
DISCUSSION**

Driscoll said perhaps 2 or 3 feet.

Hagemeier said the zoning regulations allow the eaves to hang 2 feet into the setback.

Stoic (*from the audience*) stated they wouldn't hang in the setback, but on his property.

Sagami is bothered by the fact that it may go all the way to the property line. He thinks maybe a 3-foot deck would be better.

Wagner said you have to be careful about setting precedence.

Sagami thinks it needs to be smaller or zero.

Klempel said it would set precedence.

Hollinger asked Stoic if a 3-ft vs. a 5-ft deck would make a difference.

Stoic said no. He came to follow the process and just wants the information used in making a decision to be accurate. He has to be neighbors with Driscoll and wants a fair decision.

Driscoll said the design guy came back with a plan that would work and as a homeowner he went with it. He talked about the fireplace on the outside.

Sagami said he has a problem with a deck going all the way to the property line.

Stoic pointed out a tree, on one of the maps, and said it's on his property line. He wanted it to be noted, that he doesn't want to be liable for the tree until they figure something out.

The Board and Driscoll continued to talk about the deck.

The Board agreed they would be more comfortable with a 3-ft deck.

**MOTION**

Sagami made a motion seconded by Wagner to approve staff report FZV 08-02 as findings-of-fact with the amendment that that the applicant could not encroach less than two (2) feet to the

property boundary.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**OVERCASH  
(FCU 08-04)**

A request by Charles and Kimberly Overcash, for a Conditional Use Permit to operate a low impact recreational facility within the Blanchard Lake, AG-20 (Agricultural) Zoning District. The applicants are proposing a laser tag field on approximately 5 acres which will include a large parking area. The property is located at 4966 Highway 93 South.

Harris introduced Dianna Broadie to the Board.

**STAFF REPORT**

Dianna Broadie reviewed staff report FCU 08-04 for the Board.

**BOARD  
QUESTIONS**

Sagami asked if this was just a laser-tag facility or paintball too.

Broadie said only laser tag as per the conditions; the applicant does not want to do paintball.

Klempel asked how wide the gravel road is going in.  
Broadie said approximately 15 feet.

**APPLICANT**

Charles Overcash, 4966 Hwy 93, said it makes it more cost effective and safe to locate it onsite.

**AGENCIES**

None.

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

None.

**APPLICANT  
REBUTTAL**

None.

**BOARD  
DISCUSSION**

Sagami asked if staff would have been opposed if the request would have been for paintball.

Broadie said there probably would have been environmental issues, and it would have been noisier.

The applicant reiterated they aren't interested in paintball. He said what they do is completely different and reaches out to more

people.

Broadie said condition #11 limits the equipment to “laser tag” or similar quiet technologies

Wagner asked if laser is dangerous to people’s eyes.

The applicant said it is *focused infrared technology*; the same as a beam from your remote control. It has no effect at all.

Klempel asked if the applicant would be providing a port-a-potty.

The applicant said they do plan on installing a port-a-potty, picnic tables, and some shaded area.

Broadie said installing a port-a-potty could be a condition.

**MOTION**

Sagami made a motion seconded by Klempel to adopt staff report FCU 08-04 as findings-of-fact with added condition #12 to read: *A port-a-potty meeting Flathead County health standards will be provided for use of the participants during laser tag activities.*

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**BEGG TRUST  
(FCU 07-22)**

A request by Begg Trust, (George and Edna Begg Trust), for a Conditional Use Permit to construct storage units within the Willow Glen, R-5 (two-family limited residential), Zoning District. The applicants are proposing storage units on 5.17 acres adjacent to Willow Glen Drive. These will be constructed in three phases with the first phase to be completed by the spring of 2009. The property is located at 585 Willow Glen Drive.

**STAFF REPORT**

Alex Hogle presented staff report FCU 07-22 to the Board.

**BOARD  
QUESTIONS**

Sagami asked staff what they thought would generate more traffic; R-1 or R-2 versus a storage unit like this.

Hogle said about 10 vehicle trips per day is standard for a single-family residence. He said traffic from this facility would increase as the phases are completed. He said summertime would probably be the busiest time. He pointed out that Willow Glen drive serves as a minor arterial road. It is currently a pretty high traffic road. He pointed out these storage units are considered “new generation” storage units, which are less intrusive.

Klempel asked if the storage units would be metal.

Hogle said for security and ease of assembly he assumed they would be in whole or part metal however could be painted or sided.

**APPLICANT**

Jean Johnson, of Stokes & Associates, discussed the project and discussed some of the comment letters. He addressed access, stormwater, and building height.

Sagami asked about building heights.

Gene said the interior structures should not exceed 20-ft and the outside perimeter buildings should be about 15-ft.

Jerry Begg, 220 Woodland Ave, thanked the Board for their service, the neighbors for their comments, and staff for their professionalism. He said his family has been in the valley for 5 generations. They developed South Meadows subdivision and donated land for Begg Park. He discussed the intent of covenants and that many people are not able to store their toys and treasures at their homes. He talked about the different kind of storage units and said the ones he has planned are aesthetically pleasing. He discussed buffering, access, and the increasing traffic on Willow Glen. He talked a little bit about affordable housing and mentioned that people will always need a place to store their stuff. He said they will be working with 9 agencies and would have to meet 21 conditions.

Klempel asked the applicant if he's seen the Copperstone Storage units in Missoula.

The applicant said no.

**AGENCIES**

None.

**PUBLIC  
COMMENT**

Sally Hash, 1305 3<sup>rd</sup> Ave E, thought the language and conditions in the staff report were good but wanted to have some things added because of the project's proximity to a residential area. She went over the conditions she would like added and/or altered.

Don Howard, 571 Howard Drive, talked about water pooling and

said it is problematic. He said his other concerns have been addressed. He brought some photos of the area.

Joy Mahlum, 435 Leisure Drive, expressed opposition to this development. She feels having storage units next door would devalue their property and would make it harder to sell.

Don Garner, 579 Willow Glen, is a property owner to the north. He said many of his concerns have been addressed. He said there has been standing water on the far east end of that property. He asked how far from the north line of the Begg property, the buildings would be.

Hogle said there are 10-ft setbacks and there would be walls and landscaping.

Linda Begg Mengwasser, 939 3<sup>rd</sup> Ave E, is the daughter of George & Edna Begg and is a primary beneficiary of the trust and was there to represent the rest of the family. Her family just became aware of this project due by pure happenstance. She said her family did not receive notice. She asked for a delay in the Board's approval so the family can discuss the specific details. She thanked the Board for their consideration.

**STAFF  
REBUTTAL  
APPLICANT  
REBUTTAL**

Hogle pointed out that mailings are sent to adjoining property owners and the property owners as well.

Begg said he is the Trustee for the trust; his sister is a beneficiary. He wanted to clarify how the trust is set up. He addressed several of the public comments.

**BOARD  
DISCUSSION**

Hogle said the site plan indicates the presence of the 30-ft wide easement between Willow Glen and Howard Drive.

Sagami asked staff about the drainage issues.

Hogle discussed the permitted lot coverage and said that's why he had issues with the first proposal. He believes an engineer would be able to accommodate stormwater retention mechanisms. In terms of area drainage, he believes there may be ongoing issues with water from other areas coming on to this site; that becomes a matter for landowners to address. In terms of compliance with the regulations, and the ability for a system to be established onsite to address their impacts, he is

comfortable.

Hollinger asked if there is a 10-ft setback on the south side as well. He said it's not noted on the site plan.

Hogle said yes, the drawing is made to scale.

Wagner thinks stormwater could be an issue but condition #8 states DEQ approval is needed.

Klempel talked about the impacts of this proposal.

Sagami mentioned the height restriction and said that seems awful high.

The Board discussion the height issue.

Hollinger mentioned Sally Hash's comments.

Wagner mentioned condition #12 and talked about landscaping.

**MOTION**

Wagner made a motion, seconded by Sagami, to adopt FCU 07-22 as findings-of-fact with added and amended conditions as submitted by Sally Hash.

**BOARD  
DISCUSSION**

Sagami asked the applicant about the lighting.

Mr. Begg referred the questions to Jean Johnson.

Johnson & the Board discussion lighting.

**ROLL CALL**

On a roll call vote the motion passed 3-1 with Klempel dissenting.

**BLUE DOG INV.  
(FZV 08-01)**

A request by Joseph Magaddino, for a Zoning Variance to property within the Bigfork, CVR (Commercial Village Resort), Zoning District. The applicant is requesting a variance to Section 3.26.040 (7) of the Flathead County Zoning Regulations; they wish to omit the requirement for on-site parking in downtown Bigfork. The property is located at 475 Electric Avenue.

**STAFF REPORT**

Andrew Hagemeyer reviewed Staff Report FZV 08-01 for the Board.



<b>APPLICANT</b>	Narda Wilson represented the applicants. She presented a display board showing pictures of the project. She thinks people's concern over this project has to do more with parking as a whole in the Bigfork area.
<b>AGENCIES</b>	None.
<b>PUBLIC COMMENT</b>	<p><u>Walter Kuehn</u>, 97 Eagle Bend Drive, said that parking has always been an issue in Bigfork. He said trying to resolve the problem in a lot-by-lot basis isn't going to work. He said it's an issue that needs to be tackled by the whole community; not an individual landowner.</p> <p><u>Jack Paulson</u>, 416 Electric Avenue, owns property downtown. He went to the Bigfork Land Use Advisory Committee (BLUAC) meeting and they weren't even able to discuss the things he wanted. He thinks property owners should be notified when something like this goes on. He continued to talk about building compliance, parking, and zoning.</p> <p><u>Amber Collier</u> (<i>realtor from Bigfork</i>), 458 N. Whitetail Road, recommended the Board approve this project. She said the applicant can't be expected to solve all of Bigfork's parking problems.</p>
<b>APPLICANT REBUTAL</b>	None.
<b>STAFF REBUTAL</b>	Hagemeier said there were some clerical errors and that this item should not have went back to the BLUAC meeting again. He went over some of the findings that should have been included. He discussed historically limited parking in downtown Bigfork and said a solution would require a community effort.
<b>BOARD DISCUSSION</b>	<p>Hollinger asked if the building could be rebuilt if it burned down, without a conditional use permit.</p> <p>Staff couldn't find it in the regulations. As a practical matter, the practice has been as long as they've maintained the same use that was approved the permit runs with the land, not the owner.</p>
<b>MOTION</b>	Sagami made a motion seconded by Klempel to approve staff report FZV 08-01 as findings-of-fact and grant the variance.

**ROLL CALL** On a roll call vote the motion passed unanimously. *Craig Wagner abstained; he's a member of BLUAC.*

**OLD BUSINESS** Harris handed out a packet of information regarding the Supreme Court decision on the Tutvedt gravel pit and discussed it. He said as soon as he gets some guidance from the Supreme Court, he will bring it back to the Board for discussion.

**NEW BUSINESS** Wagner asked about the cutoff time for comments on certain proposals being seen.

Harris said information comes in to the office and we make copies for the Board. He said comments are accepted up until 5 p.m. but it doesn't stop people from bringing their comments to the meeting.

**ADJOURNMENT** The meeting was adjourned at **9:05** p.m. on a motion by Wagner. The next meeting will be held at 6:00 p.m. on May 6, 2008.

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Scott Hollinger, President

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Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/6/08